

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff/Respondent,

v.

Criminal Case No. 11-20752

Civil Case No. 14-12904

Anton Harris,

Defendant/Petitioner.

Sean F. Cox

United States District Court Judge

ORDER

Petitioner Anton Harris (“Harris”) pleaded guilty to conspiracy to possess with intent to distribute and to distribute marijuana, cocaine, and cocaine base, in violation of 21 U.S.C. § 841(a)(1) and § 846. This Court sentenced Harris to a term of 120 months imprisonment. Harris did not file a direct appeal. The matter is now before the Court on Harris’s *pro se* Motion to Vacate Sentence pursuant to 28 U.S.C. § 2255, which alleges that he was provided ineffective assistance of counsel. Harris asks the Court to conduct an evidentiary hearing with respect to his claims of ineffective assistance of counsel.

The Government has filed a Response to the motion, wherein it asserts that the two of the three ineffective assistance of counsel claims raised by Harris are without merit. But, as to the third ineffective assistance of counsel claim raised by Harris, the Government concedes that it “cannot be resolved without an evidentiary hearing with testimony from the defendant and his former attorney.”

This Court agrees that an evidentiary hearing is warranted in this matter with respect to Harris’s claims of ineffective assistance of counsel.

Although there is no constitutional right to the appointment of counsel in civil cases, the Court has broad discretion in determining whether counsel should be appointed. *Childs v. Pellegrin*, 822 F.2d 1382, 1384 (6th Cir. 1987). A habeas petitioner may obtain representation at any stage of the case “[w]henver the United States magistrate or the court determines that the interests of justice so require.” 18 U.S.C. § 3006A(a)(2).

In the instant case, after careful examination of the facts and claims presented, the Court determines that the interests of justice require appointment of counsel for Harris. The Court hereby ORDERS that counsel for Harris be appointed by the Federal Defenders Office (a separate appointment order will be filed).

IT IS FURTHER ORDERED that the parties, by and through counsel, shall appear before this Honorable Court for a Status Conference on **June 24, 2015 at 2:00 p.m.** At that time, counsel should be prepared to discuss a date for the evidentiary hearing in this matter, a witness list for same, and issues concerning a waiver of Harris’s attorney client privilege. *See, e.g., Drake v. United States*, 2010 WL 3059197 (M.D. Tenn. 2010).

IT IS SO ORDERED.

Dated: April 28, 2015

S/ Sean F. Cox
Sean F. Cox
U. S. District Judge

I hereby certify that on April 28, 2015, the foregoing document was served on counsel of record

via electronic means and upon Anton Harris via First Class mail at the address below:

ANTON HARRIS 46629039
MCKEAN FEDERAL CORRECTIONAL INSTITUTION
INMATE MAIL/PARCELS
P.O. BOX 8000
BRADFORD, PA 16701

S/ J. McCoy
Case Manager